

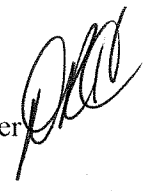


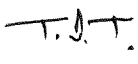
City of Loma Linda Official Report

Floyd Petersen, Mayor
Karen Hansberger, Mayor pro tempore
Robert Christman, Councilmember
Stan Brauer, Councilmember
Robert Ziprick, Councilmember

COUNCIL AGENDA: September 23, 2003

TO: City Council

VIA: Dennis R. Halloway, City Manager 

FROM: T. Jarb Thaipejr, Public Works Director/City Engineer 

SUBJECT: The Abandonment of Beaumont Avenue at Union Pacific Railroad (UPRR) Track

RECOMMENDATION

It is recommended that the City Council deny the petition requesting the abandonment of Beaumont Avenue at the Union Pacific Railroad.

BACKGROUND

At present, the US Army Corps of Engineer and the San Bernardino County Flood Control District are constructing improvements to the San Timoteo Channel, Reach 3b. As part of this improvement, the existing two Bailey Bridges, which cross the San Timoteo Channel at Beaumont Avenue, have been removed and will be replaced with a new bridge at the same crossing.

At the July 22, 2003, City Council meeting, the City Council received a petition signed by 167 residents, who were not in favor of rebuilding the bridge and are requesting the abandonment of Beaumont Ave. at the UPRR track. Their reasons for this petition are as follows:

- To maintain a high quality of life in the community by eliminating commuter through-traffic and that the traffic be solely residential in the southeast area of Loma Linda;
- To reduce traffic hazards to workers and runners from commuter through-traffic;
- To save taxpayers approximately \$1-2 million in design and construction costs of the 250-foot long replacement bridge across San Timoteo Creek; and
- To eliminate the aggravation of train whistles at the UPRR railway crossing.

Mayor Peterson requested that staff take this item to Planning Commission and City Committees to obtain their input and report back to the City Council at the September 23, 2003, meeting.

On September 4, 2003, staff presented this item the Traffic Advisory Committee (TAC) for their consideration. By a vote of 6 ayes, 0 noes, and 3 absent, the Committee made a recommendation to keep Beaumont Ave. open and construct the bridge. This action was based on fire safety concerns in the south hills, where Beaumont Ave. is used as an access road for emergency vehicles and equipment coming from the east, as well as an evacuation road for local residents in an event of an emergency. (Attachment A, Draft Traffic Advisory Committee minutes).

At the September 10, 2003, Planning Commission meeting, there were public comments made from residents, who were for and against the closure of Beaumont Ave (Attachment B, Draft Planning Commission Minutes). Comments from Public Safety Director Rolland Crawford and Community Development Director Deborah Woldruff are noted on the attached Planning Commission Minutes.

Commissioners Essex, Rosenbaum, Roberts and Neff spoke against the closure of Beaumont Ave. Commissioner Patel expressed no comment. Concerns expressed by the Planning Commissioners to the road closure included the inconvenience to the residents and surrounding communities accessing to adjacent communities, traffic circulation, traffic congestion, isolation of the residents, and fire safety issues. The Chairman noted that everyone involved should keep an open mind to the idea. It was suggested that the pros and cons of closing the road be reviewed in the General Plan.

On September 15, 2003, the Trails Development Committee discussed the proposal to permanently close Beaumont Avenue. Residents and Committee members expressed opinions for and against the closure of Beaumont Ave. Comments made in favor of closing Beaumont Avenue included decrease in traffic on Whittier Ave. and surrounding streets; limit cut-through traffic from the canyon; reduce noise and air pollution; and increase in train traffic. Discussion not in favor of closing Beaumont Avenue was based on safety issues, traffic flow and convenience. By a vote of 8 ayes, 1 no, 1 abstention and 3 absent, the Committee was in favor of keeping Beaumont Ave. open, constructing the bridge and to consider a trail along the base of the hills to San Timoteo. (Attachment C, Draft Trails Development Committee Summary Agenda)

In a memo from the City Attorney dated September 10, 2003 (Attachment D), the City Attorney advised that in order for the City to approve the closure of Beaumont Ave., the following findings must be determined: 1) Beaumont Ave. is not part of a regionally significant roadway; 2) Closing Beaumont Ave. is necessary to implement the circulation element of the City's General Plan; and 3) Closing Beaumont Ave. is consistent with the City's responsibility to provide for health and safety of its citizens, including the provision of emergency services.

In a memo from the San Bernardino Sheriff's Department, Lt. Hector Guerra, dated September 22, 2003 (Attachment E), it was his opinion that permanent closure of Beaumont Ave. would have an adverse effect on the overall public safety and would restrict the access of emergency personnel.

ANALYSIS

The City is sympathetic to the concerns of the residents, which are addressed in the petition and through the Commission and Committee hearings. The City must also take careful consideration to the overall positive and negative effects of the project and the protection of the public health, safety and welfare.

ENVIRONMENTAL

An Environmental Impact Report was prepared during the initial planning stages of the San Timoteo Channel Improvement project, which included the bridge replacement. Therefore, if Beaumont Avenue remains open and the bridge is constructed, there is no adverse environment effect.

However, if Beaumont Avenue is permanently closed and the bridge is removed, an environmental review will be required.

FINANCIAL IMPACT

None.

- Attachment:
- A) Traffic Advisory Committee Draft Minutes
 - B) Planning Commission Draft Minutes
 - C) Trails Development Committee Draft Summary Agenda
 - D) Memo from City Attorney, dated September 10, 2003
 - E) Memo from County Sheriff's Dept., Lt. H. Guerra, dated September 22, 2003

ATTACHMENT A

DRAFT TRAFFIC ADVISORY COMMITTEE MINUTES

Public Works Director Thaipejr requested to add to the Agenda discussion of the Beaumont Avenue closure at the railroad crossing. He noted that at the July 22, 2003, City Council meeting, the City Council received a petition from residents requesting for the abandonment of Beaumont Avenue at the railroad crossing. The main reason for this petition is due to the train horns that are required to be blown at Beaumont Avenue railroad crossing and excessive traffic from Redlands. He explained that the Mayor is requesting for a recommendation from the City Committees, Boards and Commissions.

Public Safety Director Crawford stated that, from a fire safety standpoint, if there was a fire in the hills, emergency vehicles use San Timoteo Canyon Road. In an event of a fire in the hills, the City relies on emergency equipment from surrounding communities from the east. Closing Beaumont Avenue access, emergency vehicles would continue on San Timoteo Road to Barton Road and come around, which would take more time.

Public Works Director Thaipejr explained that another City, Placencia, has been working with the railroad on a pilot program to stop the trains from blowing their whistle.

In a conversation with Metrolink, Public Safety Director explained that there are combinations of features involving the situation in Placencia. There are four gates, a median that extends far enough where vehicles cannot go around the sides, and a sign that states that the trains will not blow their horns at the crossing.

Chairman Bender stated that if they could consider a median would that be an independent design from the bridge.

Public Works Director Thaipejr stated that it would.

Motion by Loder, seconded by Hunt and unanimously carried to recommend approval to City Council to rebuild a bridge on Beaumont Avenue at the railroad crossing, based on fire safety concerns in the hillside, where Beaumont Ave. is an access road for emergency vehicles and equipment from communities in the east and an access road for local residents in an event of an emergency evacuation. Shanker, Arnold, Regalado absent.

Public Works Director Thaipejr there will be a presentation on this topic at the Planning Commission, Historic Commission, Parks Committee, and Trails Committee. He stated that this item is tentatively scheduled for discussion by City Council on September 23, 2003.

ATTACHMENT B

DRAFT PLANNING COMMISSION MINUTES

PC-03-18 - DISCUSSION OF THE PROPOSAL TO PERMANENTLY CLOSE BEAUMONT AVENUE AT ITS TERMINUS WITH THE UNION PACIFIC RAILROAD RIGHT-OF-WAY AND TRACKS AND SAN TIMOTEO CREEK CHANNEL - City Council is requesting input from the Planning Commission and Trails Development Committee on this issue. Public Works staff will provide background information and an overview of the proposal and related issues.

Director Jarb Thaipejr, Public Works Department presented a brief report for this item. Mr. Thaipejr explained that the San Bernardino Flood Control along with the Army Corps of Engineers had removed the Bailey bridge during the construction of the San Timoteo Creek project. The Bridge was dismantled and there are plans to build a new larger bridge in the same area but not necessarily in the same location. The City Council received a petition presented by Mr. Noel Christensen with 167 names requesting that the bridge not be reconstructed. The City Council mandated Mr. Thaipejr to obtain input from the Planning Commission, and prepare a staff report for the next City Council meeting on September 23, 2003 when it would to public hearing.

Chairman Neff replied that the Commission was willing to listen to public comment as long as the comments were concise and non-repetitive. Mr. Neff began the discussion by asking the Commissioners their opinion on the issue.

Director Woldruff reminded the Planning Commission that this was a non-public hearing item, and that although it is the Commission's prerogative to entertain public comments, the comments could not be considered to be public testimony.

Commissioner Essex stated that he always used the bridge and would find it inconvenient if he would have to take a detour on a permanent basis because the bridge would not be rebuilt. He concluded stating that he was in favor of building a new bridge to accommodate the residents of Loma Linda and other surrounding communities.

Commissioner Rosenbaum stated that her concerns were traffic congestion and the isolation of the residents without the Beaumont Avenue Bridge especially as it pertained to emergency services namely brush fires as they have occurred in the past that might trap the residents.

Commissioner Roberts stated that she understands the wish of those residents for a peaceful and quiet community, but the petitioners should take into consideration the community as a whole. Ms. Roberts also had concerns about traffic circulation and congestion.

Chairman Neff opened the discussion to public comments with a note of caution that the comments would not be considered as public testimony because the item on this agenda is not a public hearing item.

Tami Swigart, 26253 Cresthaven, Loma Linda, stated that she is in favor of keeping the bridge because she uses it on a daily basis to drive her children to school and that the alternative routes would be time consuming and impractical. She continued to say that the homeowners in the area knew what the situation was regarding the trains when they purchased their property.

Tricia Thrasher, 26058 Via Oro, Loma Linda, explained to the Commission that she was also concerned about safety and circulation, but that there were other considerations such Initial Studies, Negative Declaration, and Environmental Impact Reports that were done with the presumption that the bridge would be in place when development took place. She continued to say that with the permanent closure and removal of the bridge, the studies would have to be redone because conditions would have changed. She concluded by saying that the proponents of the closure must take into consideration the financial burden that would be placed on the City.

Chairman Neff invited Fire Chief Rolland Crawford to share his comments. Chief Crawford explained that the Department of Public Safety recognizes the fact that the homes are in a very hazardous area and that fires are inevitable. He continued to say that the Fire Department relies on surrounding communities; these communities provide additional equipment and would come from the east, in cases such as the mutual agreement with the City of Redlands, to aid in fires and medical type emergencies.

Director Woldruff advised Chairman Neff that Alternate Commissioner Christianson had requested her to make his opinion known, as he was unable to attend the meeting due to a medical procedure. She reported that initially, Mr. Christianson thought that it was an interesting concept but after further reflection he had reservations about the wisdom of a permanent closure.

Mr. Noel Christensen, 25831 Emmerson St., Loma Linda requested to speak and stated that since he presented the petition he should have been able to contact the 167 people who signed it to give them an opportunity to voice their views. He listed the reasons why the closure would be beneficial: better quality of life for residents, no traffic, the elimination of the loud noise from train whistles, the savings of 1 to 2 million dollars of taxpayer money by not building the bridge, and the safety of walkers and runners, to name a few.

Mr. Christensen continued to say that he was disappointed that the agenda had not been publicized as a public hearing that would have provided everyone an opportunity to give their opinions. He thanked the Commissioner for their time.

Mr. Glenn Elssmann, 11641 Poplar St., Loma Linda, rationalized that the construction of the bridge was not envisioned in the immediate future, therefore there was time to study the issue in greater detail by perhaps creating a process to assess impacts of rebuilding or not rebuilding the bridge. He suggested that the Commission could conceivably add this type of suggestion to their recommendation to the City Council.

Commissioner Roberts stated that she agreed with Mr. Elssmann but added that an east/west route from Loma Linda to Redlands was crucial for safety and circulation.

Commissioner Rosenbaum asked if the Commission had to provide a consensus of opinion to the City Council. Chairman Neff replied that no action was to be taken this evening and the City Council wanted input from the members.

Director Woldruff explained that the Planning Commission could allow and forward public comment to the Council. She continued to explain that the General Plan was in the process of being updated and the Traffic and Circulation Element had not yet been completed. Ms. Woldruff suggested that if it was the will of the Commission, Mr. Lloyd Zola, Consultant representing LSA Associates could be asked to evaluate the situation in the Environmental Impact Report (EIR) as an alternative to the Circulation Plan. She indicated that she would contact LSA and ask if it could be done even if the analysis has been completed. Director Woldruff reported that the current circulation analysis took the bridge into consideration.

Chairman Neff concluded by saying that he was not in favor of closing the road, but that everyone should keep an open mind about the idea. He agreed with Director Woldruff about including the idea in the review of the general plan to learn more about the pros and cons of closing the road. He went on to say that all the comments received during the meeting from the Planning Commission, staff and the public comments would be forwarded to City Council as requested. Chairman Neff suggested that the draft minutes be attached as back up information to Director Thaipejr's staff report and further requested that the draft minutes of this item be sent to him for review and verification to ensure that the minutes characterize the discussion.

Chairman Neff concluded by saying that all the comments received this evening from the Planning Commission, from staff and the public comments would be passed on to City Council as requested and he suggested that the draft minutes be attached as back up information to Director Thaipejr's staff report. Mr. Neff requested that the draft minutes of this item be sent to him for review and verification that they characterize the discussion.

Chairman Neff allowed one final person to address the Commission. Janet Webb, 11517 Via Largo suggested that an overpass over the railroad tracks would eliminate the noise from the train whistle. Mr. Neff thanked her for her input.

Director Woldruff stated that the staff report would contain the Planning Commission's consensus to request Mr. Zola's opinion regarding the review through the General Plan Update along with the Commissioners' comments and observation.

Chairman Neff stated that it seemed appropriate to add it to the General Plan review since the Plan is currently under revision.

ATTACHMENT C



CITY OF LOMA LINDA

Community Development Department
25541 Barton Road, Loma Linda, CA 92354

SPECIAL MEETING TRAILS DEVELOPMENT COMMITTEE

SUMMARY AGENDA

MONDAY, SEPTEMBER 15, 2003, 6:00 P.M.

COMMUNITY ROOM
25541 BARTON ROAD, LOMA LINDA

- A. CALL TO ORDER 6:05 P.M.
- B. ROLL CALL (members present to constitute a quorum)

Committee Members

Present: Jim Walling, Chairperson
James Baden
Mary Lynn Cooke
Lynn Foll
James McIntosh
Lillian Miller
Ric Revel
Rudy Szutz
Jeanne Wieseeman
Jan Zumwalt

Absent: Geraldine Farris
James Perry
Jonathan Zirkle

Guests: Rick Birnham
Noel Christensen
Rita Christensen
Jay Gallant
Valerie Gallant
Ken Hodgkins

*Marie Hodgkins
Carly Morgan
Doree Morgan*

*Staff: Dennis R. Halloway, City Manager
Rolland Crawford, Public Safety Director/Fire Chief
Lt. Hector Guerra, San Bernardino County Sheriff's Department
T. Jarb Thaipejr, Public Works Director/City Engineer
Deborah Woldruff, Community Development Director*

C. COMMENTS FROM THE FLOOR/PUBLIC PARTICIPATION (Limited to 30 minutes; 3 minutes allotted for each person)

None

D. DISCUSSION ITEM

1. DISCUSSION OF THE PROPOSAL TO PERMANENTLY CLOSE BEAUMONT AVENUE AT ITS TERMINUS WITH THE UNION PACIFIC RAILROAD RIGHT-OF-WAY AND TRACKS AND SAN TIMOTEO CREEK CHANNEL - The City Council is requesting input from the Planning Commission, the Traffic Advisory Committee, and the Trails Development Committee on this issue. Public Works staff will provide background information and an overview of the proposal and related issues.

DISCUSSION - Jim Walling, Chairperson, provided comments on direction from City Council.

Public works Director, T. Jarb Thaipejr, provided background on the San Bernardino County Flood Control Project and the citizen's petition that was received.

Chairperson, Jim Walling read Lt. Hector Guerra's letter into the public record. Public Safety Director and Fire Chief Rolland Crawford stated the Public Safety Department's concern about the closure. In the county unincorporated area, SVC area 38, Loma Linda provides structure fire protection. Talked about the "bump and run" method of moving fire equipment while the fire moves.

Marie Hodgkins, resident of Wellesly and Beaumont, noticed that since the closure and that traffic has decreased on Whittier and other surrounding streets. No cut thru traffic from the canyon. Citizens of Loma Linda have reclaimed their roadway. Other benefits include a decrease in outsiders in Hulda Crooks Park on the Sabbath. As a fireman, I would access from area from Barton Road.

Other issues in the neighborhood are noise and air pollution. Yes, I signed a disclosure and know about the trains when I moved in. With increased trains, it will be more difficult for safety vehicles to get through.

Rick Birnham mentioned that he knew about the trains when he moved into the neighborhood. As train traffic increases, it will be more and more difficult to rely on that road for safety purposes.

From a trails standpoint, Beaumont Avenue is an important roadway. He asked that the Trails Development Committee consider the importance of the road as a trail.

Noel Christensen mentioned that people who live in Loma Linda use the road with much more care and consideration than outside commuters. As the South Hills develops, there will be more traffic on Beaumont Avenue; however, it will be Loma Linda traffic.

Parks Committee member, Doree Morgan, expressed as a Parks committee member and a local resident, she would like to see Beaumont Avenue remain open. She recognizes the attraction of closing the road. However, the traffic on Whittier has increased by Bryn Mawr School and the Bryn Mawr area.

The route into Redlands is critical to Committee member Morgan and her family for school and for safety. There are valid concerns on both sides of the issue, but she would not want to see the road closed. A bridge would be a good idea.

Valerie Gallant lives near Whittier and traffic has increased considerably. Going to Redlands is convenient, but not the reason she wants to keep Beaumont Avenue open. Valerie is more concerned about safety issues.

Jay Gallant said the new bike lane has increased safety for bicyclists and the off road trail has increased safety for runners. He uses the road to go to Redlands High School and to go to work in Hemet everyday. Some of his neighbors are doctors who work in Moreno Valley. He would like to keep Beaumont Avenue open for convenience. It is an asset to the community and should not be closed.

Committee Member Lynn Foll asked if Jay could quantify traffic in the morning when he runs. Mr. Gallant estimated that he saw one car per six now.

Rick Birnham asked if Director Thaipejr could remember the traffic count information. Director Thaipejr said not of the top of his head. Rick stated the commuter traffic into town appears to be later in the morning.

Committee Member, James Baden, stated that if the road stays closed, cyclists would not use Beaumont Avenue.

Ken Hodgkins expressed his concern about the train whistle. He knows the trains were there, but had no idea that the whistles were so loud. Closing Beaumont Avenue cuts down on traffic in the area.

Committee member Jan Zumwalt asked if the whistle impacts property value. Ken Hodgkins said he didn't think so, but qualified that he is not a real estate expert. Chairperson Walling wondered if the City of Loma Linda was successful, wouldn't the whistle still blow at Bryn Mawr and San Timoteo Road crossings? Ken said yes because the other crossings are so far away. Valerie asked if the whistle could be limited to daytime hours.

Committee member Jim McIntosh stated that the FRA regulations state that the whistle be blown or the engineer will be personally fined and liable. Mrs. Gallant asked about decibel level and was informed that it is heavily regulated.

Committee member James Baden asked Ken if the horn were eliminated, would he still want to see Beaumont Avenue closed. He said "yes".

Committee member McIntosh continued on to discuss the Railroad crossing closures and how once a crossing is gone, it will never be reopened.

Chairperson Walling asked if the committee would like to discuss and direct questions to the staff available.

Committee member Jeanne Wiese asked Rolland if the number of trains would hinder emergency services? He responded "yes".

Committee member, Mary Lynn Cooke, inquired about calls for service in the eastern canyon side, Chief Crawford responded that he did not have firm numbers but that calls do occur. Committee member Zumwalt asked about various roads into the South Hills and canyon areas. She had questions about how much development could actually occur between Barton and Beaumont.

Rick Birnham asked if development in the South Hills occurs, wouldn't a fire station be constructed? Chief Crawford stated that there were no plans at this time. Deb stated that any development in the City's sphere would require CEQA evaluation to evaluate many things including City services.

Chairperson Walling stated that tracks use to handle 17 trains each direction per day. At this time, the tracks are handling 42 trains per day. Ken Hodgkins stated that S. Hansberger's office informed him that tracks would be increased for six tracks.

Committee member Zumwalt asked about traffic controls on Beaumont if the bridge is ? and Beaumont Avenue is reopened. She inquired whether the road could be signed as "No Through Traffic".

Ric Revel asked about Glenn's property and the potential for a trail easement. Mrs. Hodgkins stated that Glenn is still pursuing.

Noel Christensen talked about Redlands' intent to reactivate the "Emerald Necklace Plan", a greenbelt plan that could include trail connections. Chairperson Walling gave some background on the "Emerald Necklace"

Chairperson Walling asked if City Staff present could give recommendation to the committee. Chief Crawford said to re-open, Lt. Hector Guerra said to re-open and City Manager, Dennis Halloway suggested that the only way to eliminate the horn noise was to lobby our C. Lewis to urge Congress to approve the use of stationary horns at the crossings and that the road should be kept open.

Director Woldruff said to keep road open yet seek solutions for at grade horns and seek funding for a bridge.

Committee member, Lillian Miller stated that it was very disruptive to trail users to have to find an alternate route.

Mr. Gallant said that if Beaumont Avenue was to be closed for the whistle, then Whittier Avenue should be closed for the same reason.

Committee member Zumwalt questioned what the Trails Development Committee could recommend to the City Council.

Committee member McIntosh suggested that the recommendation. focus on the closure issue.

Director Woldruff suggested focusing on the closure issue but also adding recommendations. On trail links, railroad horns and overpass.

Committee member Zumwalt recommended that the Trails Development Committee add to the Trails Plan from Beaumont to San Timoteo Road and keep Beaumont Avenue closed.

MOTION TO KEEP BEAUMONT CLOSED AND RECOMMEND TO CITY COUNCIL THAT THEY CONSIDER TRAIL ALONG BASE OF HILLS TO SAN TIMOTEO AVENUE. (ZUMWALT/FAILED FOR LACK OF SECOND)

MOTION TO RE-OPEN BEAUMONT AND RECOMMEND TO CITY COUNCIL THAT THEY CONSIDER A TRAIL ALONG THE BASE OF THE HILLS TO SAN TIMOTEO AVENUE (WEISSEMAN/SZUTZ; CARRIED - 8 YEAS/ 1 NAYS/ 1 ABSTENSIONS/ 3 ABSENT)

E. ADJOURNMENT 8:05 P.M.

DISCUSSION - The Trails Development Committee agreed to adjourn to a Special Meeting on October 9, 2003.

MOTION - None

ATTACHMENT D

MEMORANDUM

DATE: September 10, 2003

TO: LOMA LINDA CITY COUNCIL

FROM: Richard E Holdaway, City Attorney

RE: Legal Restrictions on Street Closures (Beaumont Avenue)

The City Attorney's office has been asked to provide an opinion and legal guidance on the following question: May the City of Loma Linda permanently close Beaumont Avenue at the eastern border of the City?

CONCLUSION

The City of Loma Linda may close Beaumont Avenue at the eastern border of the City only if the City can make necessary findings to the effect that:

1. Beaumont Avenue is not part of a regionally significant roadway;
2. Closing Beaumont Avenue is necessary to implement the circulation element of the City's general plan; and
3. Closing Beaumont Avenue is consistent with the City's responsibility to provide for the health and safety of its citizens, including the provision of emergency services.

ANALYSIS

The City of Loma Linda is considering the closure of Beaumont Avenue at the eastern border of the City. It is my understanding that the purpose of the proposed closure would be to permanently remove the railroad crossing at Beaumont Avenue so that trains crossing through the City at that point will no longer be required to sound the train horn. Noise from the train horn has greatly disturbed residents in the vicinity of the Beaumont Avenue railroad crossing.

As to whether the City may thus "close" Beaumont Avenue, the City Attorney's office has concluded that the City may do so only under the limited circumstances set forth in the

conclusion above. The determination of whether or not the above findings can be made is a fact-based question which may properly be addressed by the City's appropriate committees and by the City Council. In making that determination, the following legal authority should be considered:

The State of California has preempted the entire field of motor vehicle traffic regulation. Therefore, any right of a local public agency to interfere with the free flow of traffic, by closing a street or otherwise, must be derived from an express delegation of authority (California Vehicle Code, Section 21; Rumford v. City of Berkeley (1982) 31 Cal.3d 545, 550. The authority to regulate traffic is strictly construed (Rumford, supra, at Page 550).

The State legislature has granted cities the requisite power to regulate certain aspects of traffic on their streets and highways. In particular, California Vehicle Code, Section 21101, provides in pertinent part as follows:

"Local authorities, for those highways under their jurisdiction, may adopt rules and regulations by ordinance or resolution on the following matters:

- (a) Closing any highway to vehicular traffic when, in the opinion of the legislative body having jurisdiction, the highway is either of the following:
 - (1) No longer needed for vehicular traffic.
 - ...
- (f) Prohibiting entry to, or exit from, or both, from any street by means of islands, curbs, traffic barriers, or other roadway design features to implement the circulation element of a general plan The rules and regulations authorized by this subdivision shall be consistent with the responsibility of local government to provide for the health and safety of its citizens."

While subdivision (a) of Section 21101 may appear to give authority for closing a street, the courts have tended to interpret that section very strictly. In Rumford v. City of Berkeley, supra, the State Supreme Court stated that, when subdivision (a) speaks of "closing any highway to vehicular traffic," it means exactly what it says: completely closing the street to all traffic. The court specifically held that the subdivision does not provide authority to partially close a street to some traffic while leaving other traffic free to use the street, and, more particularly, that it does not provide authority for a local jurisdiction to place a physical barrier across a street in order to "close it to through traffic while allowing its use [on either side of the barrier] for neighborhood purposes" (Rumford at 551).

The language, "no longer needed for vehicular traffic" would also be strictly construed by the courts and would not seem to apply to a situation where a street had been in active use and had not been replaced by a reasonably equivalent alternate route. Subdivision (a) clearly addresses unneeded highways rather than the unwanted noise, congestion or other incidental effects of an active highway.

Following the Rumford decision, the State legislature enacted subdivision (f) of Section 21101. This subsection was analyzed by the Court of Appeal in City of Poway v. City of San Diego (1991) 229 Cal.App.3d 847. In that case, the City of San Diego attempted to close to all traffic its portion of a major arterial roadway that continued beyond its city limits. The court found that such action infringed upon the rights of other citizens of the greater metropolitan area and held that Vehicle Code Section 21101, subdivision (f), did not create a broad new authority to close roadways. The court concluded that Section 21101, subdivision (f), "should not be interpreted to allow one municipality to close its portion of a regionally significant, safely designed and maintained roadway for reasons of self-interest, to the detriment of those other members of the motoring public who seek to travel the entirety of that road" (Poway, supra, at 866).

In City of Hawaiian Gardens v. City of Long Beach (1998) 61 Cal.App.4th 1100, the Court of Appeal held that a "collector" road running adjacent to a freeway through Hawaiian Gardens and into Long Beach could not, consistent with Vehicle Code Section 21101, subdivision (f), be closed at the border between the two cities. The evidence showed that the street in question served a regionally significant function. Further, the street's closure would have had a significant negative impact in Hawaiian Gardens and would have hampered the provision of emergency services. Therefore, the court concluded that closing the road would be inconsistent with the city's duty, specified in the statute, to provide for the health and safety of citizens.

In contrast to the Poway and Hawaiian Gardens cases, the court in Save the Sunset Strip Coalition v. City of West Hollywood (2001) 87 Cal.App.4th 1172, upheld the creation of a cul-de-sac without a finding that the route was no longer needed for vehicular traffic. The factors considered significant by the court were that the city had not closed to traffic a major street running through one or more adjacent cities. The city had merely created a cul-de-sac on a one-block-long residential street situated entirely within its own borders. There was no evidence that creating the cul-de-sac would interfere with the delivery of emergency services or otherwise adversely affect the public health and safety.

In light of the above case law, the City Council should carefully consider whether or not necessary findings of fact can be made to support a street closure under either subdivision (a) or subdivision (f) of Vehicle Code Section 21101. The City Council should in particular focus on those issues considered most significant by the courts, i.e., whether or not the subject road is regionally significant, whether or not closure of the road would be consistent with the City's adopted circulation element of the general plan, and whether or not the public health and safety would be negatively affected by the closure of the road.

RICHARD E. HOLDAWAY, City Attorney
CITY OF LOMA LINDA

REH:sw

ATTACHMENT E



GARY PENROD, SHERIFF



September 22, 2003

Jim Walling, Chairman
City of Loma Linda
Trails Development Commission

Subject: Permanent Closure of Beaumont Ave.

Dear Mr. Walling:

It has been brought to our attention that various committees and groups have been tasked with investigating the possibility of a permanent closure of Beaumont Ave. at the San Timeteo Creek, and to report their findings along with recommendations to the City Council. In an effort to provide your group with what I feel is pertinent information, I would like to offer the law enforcement perspective on this issue.

As I am sure you have been made aware, traffic volume on Beaumont Ave. is one of the major concerns. To this issue, I would like to point out that from an enforcement point of view, our goal is the "safe and efficient" flow of traffic. Keeping Beaumont Ave. closed adversely affects both of these factors in that the residents of that area are forced to choose internal residential streets for ingress and egress to their neighborhoods. The traffic calming measures that were installed just prior to the closure of Beaumont Ave. have had positive impacts on the traffic flow and provided a safer environment on that roadway.

From a tactical perspective, it is rarely a good idea to reduce the number of ways in or out of a particular area. Since this area is very near the city limits with Redlands, and our law enforcement recourses for Loma Linda are limited, it very probable that we would request the assistance of the Redlands Police Department should a major incident occur. By permanently closing this roadway, we limit our ability for a coordinated response from the Redlands PD.

Finally, as we recently experienced with the fires in the south hills near Hulda Crooks Park, where evacuation of nearby residences was a serious thought, closure of Beaumont Ave. would have limited our ability to get the residents out and emergency recourses in.

It is therefore my opinion that the permanent closure of Beaumont Ave. would detract from the overall safety of the public and would restrict the access of emergency personnel.

Sincerely,

Gary Penrod, Sheriff

A handwritten signature in black ink, appearing to read "Gary Penrod".

By Hector Guerra, Lieutenant
Sheriff's Central Station